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WHTS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,935	01/12/2001	Jay B. Schiller	FSP0181	2760
7590 Attn: Charles A Mirho FSP LLC P.O. Box 890 Vancouver, WA 98666-0890		09/27/2007	EXAMINER BROWN, RUEBEN M	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/759,935	SCHILLER ET AL.
	Examiner Reuben M. Brown	Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 May 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 22-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 22-41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>3/29/07</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

***Response to Arguments***

1. Applicant's arguments filed 5/29/2007 have been fully considered but they are moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376), in view of Ritchie, (U.S. Pat # 5,790,523).

Considering claim 22, the claimed 'VOD system, comprising a headend adapted to address communications comprising an identification of a group of subscriber terminals to all terminals of the group, so that the communication of the identification of the group is not addressed to any one particular terminal of the group, and the identification may be accessed and read by all of the terminals of the group', is met by the disclosure of Son, that the Logical Node ID generator 102 generates a Logical Node ID, which is inserted into the data stream to be

Art Unit: 2623

transmitted over the network 108 to all of the relevant subscriber stations, (Fig. 1; Fig. 2b; Fig. 3; Fig. 4; col. 7, lines 45-62; col. 8, lines 1-35; col. 9, lines 17-25; col. 9, lines 29-40).

The headend further adapted to receive a request for a VOD including the group identifier and to enable one or more modulators associated with the group identifier to pass the VOD downstream, is met by the disclosure in Son that the subscriber stations include the Logical Node ID in their VOD request, and the headend transmits the requested VOD over the appropriate modulator 106 (col. 4, lines 57-67; col. 5, lines 45-67; col. 9, lines 25-30).

As for the additionally claimed feature, 'headend adapted to receive a request including the group ID, to extract the group ID from eth request', eve though Son teaches that the group ID is transmitted upstream in messages, the reference does not explicitly state transmitting the ID as part of a request. Nevertheless Ritchie, which is in the same field of endeavor teaches that a headend (HIU) transmits an ID to a terminal (CIU), and subsequently this ID is transmitted upstream with requests for service, by the CIU, col. 19, lines 35-63. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Son with the feature of transmitting an ID along with each request for service, for the purpose of ensuring that the source of each message to the server.

Considering claims 23, 27 & 35, see col. 2, lines 39-67; col. 4, lines 40-56; col. 8, lines 50-67.

Art Unit: 2623

Considering claims 24, 28, 36 & 40, Son teaches that the Logical Node ID may be periodically transmitted to the subscriber stations, (col. 8, lines 23-28; col. 9, lines 52-57).

Considering claims 25, 29, 37 & 41, Son teaches that the Logical Node ID may be sent as an MPEG stream, col. 8, lines 20-35.

Considering claims 26, 30 & 38, the claimed elements of a VOD system that correspond with subject matter mentioned above in the rejection of claim 22 are likewise treated. As for the claimed feature of ‘a video server and an application server’, the ‘video server’ reads on the operation of the video server 104b, Logical Node ID generator 102b, DVM 106b (Fig. 2B; col. 5, lines 45-67 thru col. 6, lines 1-33.). The ‘application server’ reads on the operation of the SSCM 314 at the headend, (Fig. 1; Figs. 2A; 2B; Fig. 3; col. 4, lines 52-67; col. 6, lines 45-67; col. 9, lines 25-29).

Considering claim 31, Son teaches transmission of Logical Node ID using out-of-band process, col. 7, lines 1-32.

Considering claim 32, the subscriber station of Son, meets all subject matter, (col. 6, lines 31-67; col. 9, lines 1-50).

Considering claim 33, see col. 2, lines 55-67; col. 7, lines 1-30 & col. 9, lines 50-67.

Considering claim 34, the claimed VOD system, comprising elements that correspond with subject matter mentioned above in the rejection of claim 22, are likewise treated.

Considering claim 40, see Son, col. 8, lines 1-35.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown



REUBEN M. BROWN  
PATENT EXAMINER